

OPINION
55-41

June 29, 1955 (OPINION)

COUNTY COURT

RE: Filing Fees, Applications to Determine Estate Tax

I have your letter of June 22, 1955, wherein you request an interpretation of chapter 196 of the 1955 Session Laws, which read as follows:

"FILING FEES FOR ESTATES AND GUARDIANSHIPS: AMOUNT; WHEN AND WHERE TO BE PAID. Before a petition for letters testamentary, of administration, of guardianship, of proceedings in heirship, or an application in joint tenancy to determine estate tax, is filed in a county court of this state, the petitioner, or someone on his behalf, shall pay a filing fee into the county treasury of the county in which the court is located which shall be in the sum of seven dollars and fifty cents, except that the filing fee for application in joint tenancy to determine estate tax shall be in the sum of three dollars and such filing fee for applications in joint tenancy to determine estate tax shall not be subject to the provisions of section 27-0741 of the 1953 Supplement to the North Dakota Revised Code of 1943."

Your question is stated as follows:

"The act does not specifically mention applications to determine estate tax, if any, in termination of life estates. Since there are quite a number of such applications, I desire your opinion as to whether or not there should be a filing fee in connection therewith, and if so, the amount thereof."

The general rule is that no officer may charge a fee where such fee is not prescribed by law. Chapter 196 is an amendment to section 27-0740, 1953 Supplement. The amendment provides for a fee of three dollars for the filing of applications in joint tenancy to determine estate tax. There is no provision for filing fee for applications to determine estate tax, if any, in termination of life estates.

It is, therefore, my opinion that there is no fee chargeable by the county court for filing applications to determine estate tax in termination of life estates.

LESLIE R. BURGUM

Attorney General